

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PRO' SE FLORENZO DI DONATO

Plaintiff,
v
CIVIL ACTION
NO.04-10021-JLT
WILLIAM GALVIN, Secretary of State

Defendants

PRO' SE PLAINTIFF OBJECTS TO MOTION FOR COMPLAINT DISMISSAL (AS MOOT)

Defendant States the following:

(Pursuant to Fed R.Civ.P.12(b)(1), the state defendants Secretary of State and Clerks from the Election Office (Michelle Tassinari and Howard Hock) hereby move to dismiss the complaint as moot. In support thereof, the state defendants state that the only relief sought in The complaint—that plaintiff's name be placed on the ballot for Massachusetts' March 2, 2004 Presidential primary ballot—can no longer be granted now that the primary has occurred. It is black-letter law that, in a federal court, justiciability requires the existence of an actual case of controversy. U.S. Const. art. iii, ss 2, cl. 1. Even if an actual case of controversy exists at the inception of litigation, a case may be rendered moot (and, therefore, subject to dismissal) if changed circumstances eliminate any possibility of effectual relief. "Maine School Admin. Dist. No. 35 v. Mr. and Mrs. R., 321 F.3d 9, 17 (1st Cir. 2003). Where the relief sought is injunctive in nature, "this ordinarily means that once the act sought to be enjoined occurs, the suit must be dismissed as moot." Id.

Here, with the occurrence of the primary on March 2, 2004 no effectual relief can be granted. The Court cannot enjoin the primary unless plaintiff's name is placed on the ballot, because the primary has already occurred. The case is therefore moot and the complaint should be dismissed as to the state defendants for lack of subject matter jurisdiction.

Plaintiff Objects and replies to the defendants projected claims.

It is my understanding as a Pro'se plaintiff that the description of the black-letter law described

has only to refer to the case of candidate Chester Rudnicki vs. U.S. Representative Edward Kennedy Which may or may not meet the criteria of the black law. It is also my understanding that as a candidate who's only intention was to run for this high office, to try to include the pro-life question before the members of the Democrat convention body and if possible try to get written into the democrat platform a true evaluation of all democrats whether they are pro-life or pro-choice. I honestly believe that the rank and file party members want our party to clarify our party's position, especially when the Convention is to be held here in Boston. What price can one ask when he takes a stand for morality? As far as the loose terminology being used by the defendants and their counsel about my case being moot, it is, my feeling that our representatives have been to long moot on this particular issue. And I believe that the people of America needs to have this question resolved now, not after the extermination of another hundred million innocent souls.

The defendant's counsel also stated

(In the interests of judicial economy, the state defendants further note that the complaint does not appear to contain any allegations against, or seek relief against, the remaining Defendant (Philip Johnston, as he is Chairman of the Democrat State Committee), and thus the remainder of the complaint may be dismissible for failure to state a claim.

PLAINTIFF OBJECTS AND REPLIES TO FURTHER CONJECTURE BY THE DEFENDANTS AND THEIR STATE ATTORNEY.

As a Democrat I have taken pain not to confront other Democrats In the interests of judicial economy, which was my reason for not seeking financial relief against the remaining defendant and what good would it do to file allegations against our state party chairman (Philip Johnson, as he is the chairman of the Democratic State Committee and thus I Pro'se Florenzo Di Donato Did verbally express to the Assistant Attorney General, as well as to Michelle Tassinari, and Howard Hock and to the state Democratic Chairman Philip Johnston that I would submit for a

chance to address the Democratic Convention in July, which Philip Johnson replied, " Not while I'm Chairman. It was his Negative Statement that motivated me to pursue my Right to confront him in court as one of the other state attorney's suggested.

From the first day when I started to gather my signatures, up to the very last day I Kept on calling the Chairman's office I called some Five or six Times. Wanting to ask him why I was denied the opportunity to have my name placed in nomination on the ballot, while the other candidates were accepted and given preferential treatment. All with the acception of Lydon Laroushe ...

As Peter Sacks the Assistant Attorney General counsel stated he did call me on the phone on March 9th and we did confer, the only thing I differ on is, Mr. Sacks said he would get back to me in a couple of Day's which he never did.

Pro' se Plaintiff Florenzo Di Donato



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" REQUEST FOR ORAL ARGUMENT "

YOUR HONOR I AM REQUESTING A HEARING
TO ASSIST THE COURT IN INTERPETING WHAT
I BELIEVE TO BE, A GRAVE INJUSTICE DONE
TO THE HONORABLE PEOPLE, HERE IN AMERICA.
THEIR LOVE OF LIFE LIBERTY AND THE PURSUIT
OF HAPPINESS, IS BEING SLOWLY ERADICATED
BY CERTAIN MEMBERS OF BOTH PARTIES, WHO
HAVE NOTHING TO GAIN BUT A NEED TO DESTROY
THE HOPES AND DREAMS OF ALL OUR PEOPLE.
HAVE THEY FORGOTTEN THAT AMERICA IS, A NATION
OF, BY AND FOR, THE PEOPLE, AND NOT OF, BY AND
FOR THOSE POLITICAL ANIMALS, WHO WOULD WRITE
OFF, THEIR FELLOW AMERICANS, FOR THEIR OWN
POLITICAL ENDS. BEFORE DENYING OTHERS THIER
GOD GIVEN RIGHTS, THEY SHOULD TAKE SOME TIME
TO REFLECT ON THAT OLD LEGAL VERSE
' JUSTICE REFUSED IS JUSTICE DENIED ' ?

SUBMITTED MARCH 23, 2004

BY PRO'SE FLORENZO DI DONATO
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Susan Jannis was the first Court Aid who tried to help me, by giving me a Pro' se form.

Sherry Spencer was the second Court Aid who called and asked me if I was going to Continue in Persueing my case.

Kim was my third Court Aid, who then replaced Sherry at the Courthouse. She processed the receipt that I received, when I served that summon's, by handing it to Megget The Democrat Chairmans 'Secretary' .

Kim excepted it Saying everything appears to be all Right.

2004/03/21

Pete Sacks Assistant to the Attorney General
On the 9th day of March 2004 called my Home
To ask me what my intentions were, I assured
him, that I was going to pursue it strictly on the
principle of my Constitutional Rights as a
Citizen. On Thursday, March 11th I received a
Letter of some of the things we had discussed in
our telephone conversation on March 9th, as I
tried to explain my view, which differed from his
view. My attempt was right on schedule and I
did not fail due to being moot, the system was
moot when it failed me. And as a free citizen my
reputation was once again, as in my past
Elections 'impugned'.

After Receiving that letter from The Attorney
General's Assistant I went up to the Courthouse
on Friday, March 12th. to ask Sherry Spencer If I
should file an objection to his charge, but Sherry
was no longer working their, so I asked Kim who
was 'described to me ' as her replacement the
question of, whether or not I should file that
objection, as we talked over the In-house phone.
She advised me to ask one of the court clerks
For a booklet on local rules for court procedures
of which I did.

2004/03/22

